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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/667,995

09/22/2003

Joseph Birli

24063/04051

9320

7590

08/17/2007

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EXAMINER

DABNEY, PHYLESHA LARVINIA

ART UNIT

PAPER NUMBER

2614

MAIL DATE

DELIVERY MODE

08/17/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/667,995

Applicant(s)

BIRLI ET AL.

Examiner

Phylesha L. Dabney

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 6-8 and 23-71 is/are pending in the application.
- 4a) Of the above claim(s) 23-41, 46, 47, 49, 51, 54, 58, 60, 63-67, 69 and 71 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-8 is/are allowed.
- 6) ☒ Claim(s) 42-45, 48, 50, 52, 53, 59, 62 and 68 is/are rejected.
- 7) ☒ Claim(s) 55-57 and 70 is/are objected to.
- 8) ☒ Claim(s) See Continuation Sheet are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

Continuation of Disposition of Claims: Claims subject to restriction and/or election requirement are 23-41, 46, 47, 49, 51, 54, 58, 60-61, 63-67, 69 and 71.

### DETAILED ACTION

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

This action is in response to the Amendment received on 25 July 2007 in which claims 6-8, 42-69, and 71 are pending. Claims 1-5, 9-41, and 70 were cancelled.

#### *Election/Restrictions*

1. Applicant's election without traverse of claims 6-8 on 30 May 2006, and claims 42-45, 48, 50, 52-53, 55-57, 59, 62, 68, 70 on 25 July 2007 is acknowledged.

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 42-45, 59, and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reed (U.S. Patent No. 5,142,700), in view of MacLeod (U.S. Patent No. 4,123,622).

Regarding claims 42-45, Reed teaches a mask (10, 30) comprising a pass-through (44) and a microphone assembly (58), the pass through designed to pass a signal from an interior to an exterior of the mask through at least one electrical connection, the pass-through including a plurality of electrical connections, the microphone assembly at least partially mounted on an interior of the mask, the microphone assembly including a first microphone arrangement (58)

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and a second microphone arrangement (58), each of the microphone arrangements including first and second electrical connectors designed to be electrically connected to at least one electrical connection of the pass-through.

Although Reed teaches that the microphone is contained within face guard, Reed fails to teach at least one of said first microphone arrangement and said second microphone arrangement are detachably connected to said pass-through.

In a similar field of endeavor, MacLeod teaches a means (12) for connecting a microphone to the pass-through (fig. 2, col. 2 lines 48 through col. 3 line 2) of a face mask utilizing a detachable threaded coupling, which would allow for removal and replacement of a damaged microphone, for instance. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was to couple the microphone of Reed in the manner as taught by MacLeod for beneficially allowing removal and replacement of a damaged microphone.

Regarding claim 59, the combination of Reed and MacLeod teaches the mask as defined in claim 42, wherein the first microphone arrangement (58) is electrically connected to a device selected from the group consisting of an intercom, a telephone, a radio unit, or a voice projection unit; the second microphone arrangement (58) electrically connected to a device different from the device connected to the first microphone arrangement (col. 1 line 59 through col. 2 line 10).

Regarding claim 68, the combination of Reed and MacLeod teaches the mask as defined in claim 42, wherein the pass-through (44) is located adjacent an air supply portal (28) in the mask.

3. Claims **42-45, 48, 50, and 59** are rejected under 35 U.S.C. 103(a) as being unpatentable over Reed (U.S. Patent No. 5,142,700), in view of MacLeod (U.S. Patent No. 4,123,622).

Regarding claims 42-45, Reed teaches a mask (30) comprising a pass-through (10, 44) and a microphone assembly (58), the pass through designed to pass a signal from an interior to an exterior of the mask through at least one electrical connection, the pass-through including a plurality of electrical connections, the microphone assembly at least partially mounted on an interior of the mask, the microphone assembly including a first microphone arrangement (58) and a second microphone arrangement (58), each of the microphone arrangements including first and second electrical connectors designed to be electrically connected to at least one electrical connection of the pass-through.

Although Reed teaches that the microphone is contained within face guard, Reed fails to teach at least one of said first microphone arrangement and said second microphone arrangement are detachably connected to said pass-through.

In a similar field of endeavor, MacLeod teaches a means (12) for connecting a microphone to the pass-through (fig. 2, col. 2 lines 48 through col. 3 line 2) of a face mask utilizing a detachable threaded coupling, which would allow for removal and replacement of a damaged microphone, for instance. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was to couple the microphone of Reed in the manner as

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taught by MacLeod for beneficially allowing removal and replacement of a damaged microphone.

Regarding claim 48, the combination of Reed and MacLeod teaches the mask as defined in claims 42, wherein at least one of the first and second microphone assemblies (58) are designed to be at least partially supported on the pass-through (10, 44).

Regarding claim 50, the combination of Reed and MacLeod teaches the mask as defined in claim 48, wherein both of the first and second microphone assemblies (58) are at least partially supported on the pass-through (10, 44).

Regarding claim 59, the combination of Reed and MacLeod teaches the mask as defined in claim 42, wherein the first microphone arrangement (58) is electrically connected to a device selected from the group consisting of an intercom, a telephone, a radio unit, or a voice projection unit; the second microphone arrangement (58) electrically connected to a device different from the device connected to the first microphone arrangement (col. 1 line 59 through col. 2 line 10).

4. Claims **52-53, and 62** are rejected under 35 U.S.C. 103(a) as being unpatentable over Reed in view of MacLeod.

Regarding claims 52-53, it is implied by the reference that the microphones have connectors for providing electrical connection. In addition, the combination of Reed and

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MacLeod teaches a wiring connector structure (col. 3 lines 40-46) for connecting components to the face mask, having a second component supported on a main (first) component (fig. 2, relative to an example speaker configuration).

Since the combination of Reed and MacLeod does not specifically teach or restrict any connecting structure for the microphone components, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the example wiring connector structure (fig 2) disclosed by the reference for use by any other components could be used for attaching the microphone components in the invention of Reed and MacLeod as a means of providing electrical connection between components and the pass-through.

5. Claim **62** is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Reed and MacLeod in view of Steelman (U.S. Patent No. 6,101,256).

Regarding claim 62, the combination of Reed and MacLeod does not teach or restrict the microphone arrangements to the type of microphone used.

In a similar field of endeavor (sports communication), Steelman teaches that any suitable type of well-known transducer, which would include electret, dynamic, etc., can be used to convert sound waves and improving operating characteristics (col. 3 lines 16-29). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made that any type of transducer including electret, etc., can be used in the invention of Reed and MacLeod as taught by Steelman for improving basic characteristics and achieving the desired output and design.



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***Allowable Subject Matter***

6. Claims 6-8 are allowed.
7. Claims 55-57 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

8. Applicant's arguments with respect to incorporation of claim 70 into claim 42 above have been considered but are moot in view of the new ground(s) of rejection.
9. In the event that the Applicant does not traverse the Examiner's assertion of official notice or Applicant's traverse is not adequate; the Examiner must clearly indicate in the next office action that the common knowledge or well-known in the art statement is taken to be admitted prior art.

In this instance, the Applicant did not traverse the Examiner's assertion of official notice. Because the Applicant did not specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art [See 37 CFR 1.111(b). See also *Chevenard*, 139 F.2d at 713, 60 USPQ at 241], the official notice statements are maintained from the action dated 3 May 2007 as restated above.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phylesha L. Dabney whose telephone number is 571-272-7494. The examiner can normally be reached on Mondays, Wednesdays, Fridays 8:30-4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 571-272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

**Any response to this action should be mailed to:**  
Commissioner of Patents and Trademarks  
P O Box 1450  
Alexandria, VA 22313-1450

**Or faxed to:**  
(703) 273-8300, for formal communications intended for entry and for informal or draft communications, please label "Proposed" or "Draft" when submitting an informal amendment.

**Hand-delivered responses should be brought to:**  
Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

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August 13, 2007  
PLD



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